MONTANA LEGISLATIVE HISTORY

Chapter 509 19 81

Bill H _____ S 58 Original bill & history ✓ C

H. Committee on Education			S. Committee on Education		
Hearing Date(s)	Mar 04	✓ C	Hearing Date(s)	Jan 14	✓ C
		C		Jan 15	✓ C
		C			C
		C			C
Date Out	Mar 04	✓ C		Jan 15	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

FAILED TO MEET TRANSMITTAL DEADLINE: 2/25 -- DIED

SB 57 — B. BROWN -- TO AMEND LAWS ON DISCRIMINATION IN HOUSING....
PREFILED AND REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 12/30/80
HEARING: 1/12
EXECUTIVE SESSION: 1/14
REPORT: 1/14, WITHOUT RECOMMENDATION
RE-REFERRED TO JUDICIARY: 1/15
HEARING: 2/5
REPORT: 2/12, DO PASS AS AMENDED
2ND READING: 2/14, AS AMENDED -- YEAS: 27; NAYS: 23
3RD READING: 2/17, YEAS: 34; NAYS: 13

TRANSMITTED TO HOUSE: 2/17
REFERRED TO COMMITTEE ON JUDICIARY: 2/18
HEARING: 3/19
REPORT: 3/19, BE CONCURRED IN
2ND READING: 3/27, YEAS: 73; NAYS: 12
3RD READING: 3/31, YEAS: 83; NAYS: 11

RETURNED TO SENATE: 3/31

TRANSMITTED TO GOVERNOR: 4/8/81
ACTION: 4/13, SIGNED
CHAPTER 335

SB 58 — VAN VALKENBURG -- TO AMEND SCHOOL IMMUNIZATION LAWS TO ELIMINATE EXEMPTION BASED ON FAILURE TO ACT.
PREFILED AND REFERRED TO COMMITTEE ON EDUCATION: 12/30/80
HEARING: 1/14
REPORT: 1/20, DO PASS AS AMENDED
2ND READING: 1/22, YEAS: 25; NAYS: 21
3RD READING: 1/25, YEAS: 29; NAYS: 21

TRANSMITTED TO HOUSE: 1/25
REFERRED TO COMMITTEE ON HUMAN SERVICES: 1/26
ON MOTION, 1/31, REREFERRED TO COMMITTEE ON EDUCATION: 1/31
HEARING: 3/4
REPORT: 3/4, BE CONCURRED IN, AS AMENDED
2ND READING: 3/9, YEAS: 76; NAYS: 3
3RD READING: 3/12, YEAS: 92; NAYS: 4

RETURNED TO SENATE WITH AMENDMENTS: 3/12
2ND READING: 3/17, BE CONCURRED IN
3RD READING: 3/19, YEAS: 46; NAYS: 3

TRANSMITTED TO GOVERNOR: 3/24/81
ACTION: 4/1, AMENDATORY VETO

GOVERNOR'S AMENDMENTS
SENATE
2ND READING: 4/11, BE CONCURRED IN
3RD READING: 4/13, YEAS: 43; NAYS: 3

HOUSE
2ND READING: 4/17, YEAS: 81; NAYS: 8
ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 82; NAYS: 12

TRANSMITTED TO GOVERNOR: 4/21/81
ACTION: 4/23, SIGNED
CHAPTER 509

SB 59 -- S. BROWN -- AMENDING 85-2-306 TO PROVIDE EXEMPTION FOR A STOC
WATERING PIT-CONDITIONS
PREFILED AND REFERRED TO COMMITTEE ON AGRICULTURE: 12/31/80
HEARING: 1/14
REPORT: 1/15, DO PASS
2ND READING: 1/17, YEAS: 42; NAYS: 1
3RD READING: 1/20, YEAS: 43; NAYS: 4

TRANSMITTED TO HOUSE: 1/20
REFERRED TO COMMITTEE ON AGRICULTURE: 1/21
HEARING: 1/26
ON MOTION, TAKEN FROM COMMITTEE ON AGRICULTURE AND REFERRED
SELECT COMMITTEE ON WATER: 1/29
HEARING: 2/3
REPORT: 2/25, DO PASS
2ND READING: 3/3, YEAS: 71; NAYS: 19
3RD READING: 3/5, YEAS: 86; NAYS: 8

RETURNED TO SENATE: 3/5
TRANSMITTED TO GOVERNOR: 3/10/81
ACTION SIGNED: 3/11/81
CHAPTER 30

SB 60 -- ELLIOTT -- SUBJECTING FEES FOR CERTAIN MEDICAL SERVICES
REGULATION BY DIVISION OF WORKERS' COMPENSATION.
PREFILED AND REFERRED TO COMMITTEE ON LABOR AND EMPLOYM
RELATIONS: 12/30/80
HEARING: 1/8
REPORT: 1/21, DO PASS AS AMENDED
2ND READING: 1/23, YEAS: 36; NAYS: 9
3RD READING: 1/26, YEAS: 47; NAYS: 2

TRANSMITTED TO HOUSE: 1/26
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/27
HEARING: 3/5
REPORT: 3/6, BE CONCURRED IN
2ND READING: 3/9, YEAS: 71; NAYS: 3
3RD READING: 3/11, YEAS: 93; NAYS: 3

RETURNED TO SENATE: 3/11

TRANSMITTED TO GOVERNOR: 3/16/81
ACTION: 3/19, SIGNED
CHAPTER 93

SB 61 -- ELLIOTT -- TO REPEAL CLASS SIX PROPERTY TAXATION.
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/31/80
FAILED TO MEET TRANSMITTAL DEADLINE: 4/6 -- DIED

SB 62 -- MAZUREK -- TO PROVIDE THAT FINES, ETC., PAID TO DEPARTMENT
STATE LANDS, ETC., AND CREDITED TO THE GENERAL FUND.
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON STA
ADMINISTRATION: 12/31/80
HEARING: 1/9

SENATE BILL NO. 58

INTRODUCED BY VAN VALKENBURG

BY REQUEST OF
THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Education.
January 20, 1981	Committee recommend bill do pass as amended. Report adopted.
January 21, 1981	Bill printed and placed on members' desks.
January 22, 1981	Second reading, do pass.
January 23, 1981	Considered correctly engrossed.
January 24, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

January 26, 1981	Introduced and referred to Committee on Human Services.
January 31, 1981	Rereferred to Committee on Education.
March 5, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 9, 1981	Second reading, concurred in.
March 12, 1981	Third reading, concurred in as amended. Ayes, 92; Noes, 4.

IN THE SENATE

March 13, 1981	Returned from House with amendments.
March 16, 1981	On motion, consideration be passed for the day.
March 17, 1981	Second reading, amendments concurred in.
March 19, 1981	Third reading, amendments concurred in. Ayes, 46; Noes, 0. Sent to enrolling.
April 2, 1981	Correctly enrolled.
	Signed by President.
April 3, 1981	Delivered to Governor.
April 9, 1981	Returned from Governor with recommended amendments.
April 11, 1981	Second reading, Governor's amendments concurred in.
April 13, 1981	Third reading, Governor's amendments concurred in. Ayes, 43; Noes, 3. Transmitted to House.

IN THE HOUSE

April 17, 1981	Second reading, Governor's amendments concurred in.
	On motion rules suspended and Governor's amendments placed on third reading this day.
	Third reading, Governor's amendments concurred in. Ayes, 82; Noes, 12.

IN THE SENATE

April 20, 1901

Returned from House. Concurred in. Sent to enrolling.

Reported correctly enrolled.

SENATE BILL NO. 58

INTRODUCED BY VAN VALKENBURG

BY REQUEST OF

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 20-5-403, MCA, OF THE SCHOOL IMMUNIZATION LAWS TO ELIMINATE THE EXEMPTION BASED ON FAILURE TO ACT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required. ~~(1)~~ A governing authority may not enroll any person as a pupil in any school unless, prior to enrollment, the person:

~~(a)~~(1) has been immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubella, and measles (rubeola) in the manner and with immunizing agents approved by the department, except that pertussis vaccination is not required for a person 7 years of age or older;

~~(b)~~(2) qualifies for conditional enrollment; or

~~(c)~~(3) files for an exemption.

~~(2)--Failure-to-act-as-provided-in-subsection-(1)-in--a reasonable--period--of--time,--as-determined-by-the-board-of trustees,--is--an--exemption--on--the--grounds--provided--in 20-5-405(1),~~"

Section 2. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

-End-

SB 58

tuition. If a district tries to recruit students and waives the tuition the resident district has no problem. If they don't waive the tuition the receiving district loses their ANB and the ability to levy for that student. This a loss of $28-2900 per high school student and $1200 per elementary student in Belfry. Mr. Rase said this could mean a 1-2 mill loss in a small district with a low tax base. He stated he was not trying to bar parents from sending their children to the school of their choice but does want to ensure equitable treatment for both districts. He also pointed out there is no way to protect themselves as there is no way to anticipate the number of requests for transfers during the year. He felt the bill posed no hardship for anyone but does make the process more orderly.

Dennis Gibson, representing Belfry High School, stated his agreement with Mr. Rase's testimony. He felt the bill was necessary for all the counties in the state, not Carbon particularly. They had tried closing their county but that created more problems with transportation and other areas than it was worth. They had to go back to this system and need the help this bill offers.

Chad Smith, representing the Montana School Boards Association, stated his support for the bill. He said they have boards on both sides of the question. He said some districts raid others and the ANB is seriously affected in those districts. He felt this bill is the most effective way to address the issue.

Following a brief discussion by members of the committee, the hearing was closed on Senate Bill 68. There were no opponents.

SENATE BILL 58

Senator Fred VanValkenburg, Distict 50, sponsor of the bill, stated the bill was introduced at the request of the Department of Health and Environmental Sciences. It is essentially a repealer and deletes subsection 2 of 20-5-403. He gave a brief history of the statewide immunization law, SB 175 of last session, which was an attempt to deal with the widespread lack of immunization of school age children in the state. The bill provided for personal, medical, or religious exemptions. This bill does not propose to eliminate any of those exemptions. However, the bill was amended last session to provide for what was dubbed "an

administrative exemption" and that is the issue being addressed in this bill. The "administrative exemption" was added to cover instances where some recalcitrant parents would not bother to formally object to immunizing their children by signing the proper form. At the time, there was an expectation of less than 10% who would fail to act. An effective date of August 1, 1980, was chosen so there would be plenty of time for schools and parents to gear up. This year the Department of Health and Environmental Sciences began receiving reports in early October and it became obvious that the administrative exemption was being so extensively used that a question arose as to evasion. It was being utilized to cover up to 100% of the students in one or two districts and there were many instances of over a 10% usage.

PROPONENTS

Richard Crankshaw, Coordinator, Montana Immunization Program, Preventive Health Services Bureau, Department of Health and Environmental Sciences, presented written testimony in support of the bill (attachment #1).

C. Ray Fischer, representing Blue Cross of Montana, stated his support of the bill. The primary interest of Blue Cross is the good health of the people of Montana. He stated 1 case in 12 of measles result in complications and one case in 1000 result in death. Because of measle vaccinations, 9000 cases of mental retardation and 3000 deaths have been prevented. He said Blue Cross recognizes an urgent need for immunization and urged the committee to give the bill a do pass recommendation.

Pat Petaja, representing the Montana Health Systems Agency, stated her organization is engaged in health care planning and the 1981 plan addresses immunization. Their research revealed a serious loophole exists - that of the administrative exemption based on failure to act - which renders the law ineffective. With the elimination of the administrative exemption it is a very good law and a most necessary tool in keeping immunization levels current. She urged support of the bill.

Judy Olson, representing the Montana Nurses Association, stated her group supports the elimination of the administrative exemption. They are concerned about the high number of exemptions and urge support of the bill.

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Judy Olson, representing the Montana Nurses Association, stated her group supports the elimination of the administrative exemption. They are concerned about the high number of exemptions and urge support of the bill.

Alice Armstrong, representing the Montana School Nurse Interest Group, stated her group supports the elimination of the administrative exemption and supports the rest of the bill and the immunization of children.

Dr. Jeffrey H. Strickler, representing the Montana Unit of the American Academy of Pediatrics and the Montana Medical Association, presented his written testimony in support of the bill (attachment #2). He added that from an epidemilogical and medical point of view the failure to act puts at risk the rest of the population. He noted that immunization is not foolproof and there are still the unborn child and pregnant mother who can also be at risk.

Connie J. Johnson, a parent, stated she supports the bill as she feels it is the parental responsibility to immunize their children. She feels it is the parents' second responsibility to respond to exemptions if need be. She stated she has worked with handicapped children and has seen first hand what can happen.

Toni McOmber, representing the Montana Education Association, stated she supports the previous testimony. She further stated a child's health is important to his education. The high incidence of measles/rubella indicates schooling is affected by absenteeism.

Dr. David B. Lackman, Chairman, Legislative Committee, Montana Public Health Association, presented his written testimony in support of the bill (attachment #3).

Roberta Lener, Hill County Public Health Nurse, presented written testimony in support of the bill (attachment #4).

Shirley McGuire, representing the Health Officers and Nurse Supervisors of Local Health Departments, stated she supports the bill as it provides the impetus to parents to immunize the children and subsequently enhances the health of the children.

Joy Stevlingson, representing the Montana Parent Teachers Association, presented her written testimony to the committee in support of the bill (attachment #5).

Rick Reese, Executive Assistant to the State Board of Education, stated the Board had unanimously voted to support the bill. They oppose amending the bill as they feel it invites abuse.

Senator Judy Jacobson stated she had, as a parent, worked on a steering committee for immunization in the schools and she has some concerns with the loophole (administrative exemption).

Jerry Roth, Director, Special Services Center, Helena School District No. 1, presented his written testimony in support of the bill (attachment #6).

There being no further proponents, the Chairman called for opponents to the bill.

OPPONENTS

Jack Webster, Superintendent of Schools, Corvallis, spoke in opposition to the bill, stating Corvallis schools operate only on foundation program monies and the bill mandates another function which they have not the money or manpower to perform. The health department has refused to assume the function as they say it is not their duty. Due to the transient school population, it is necessary to devote 20 hours per week to maintain immunization records. He stated they need extra money or health department support, preferably both, to comply.

Tony Tognetti, Superintendent of Schools, Stevensville, presented statistics re student count (attachment #7) and spoke in opposition to the bill. He stressed he is not opposed to immunization but several problems exist in their area due to the fact they are operating their schools only on the foundation program. They have a very high turnover in students and the problems in obtaining health records makes it very hard to comply. He pointed out further they have absolutely no extra dollars to work with due to the foundation funding operational monies being their only support. They have had to cut back in many many areas, i.e. the Jr. High School has no secretary, the two custodians double as bus drivers, etc. The county nurse and volunteers have said they would help but confidentiality then becomes a problem. He feels if parents can't enroll their children until they are immunized they will be angry and the educational process will come under attack. He again emphasized he is not against good health and does want safe healthy schools and students. He feels it is mandatory that public health nurses assume the responsibility rather than the burden being on the school district.

Quentin Brown, Chairman, Corvallis School Board, opposed the bill, stating their full time secretary was spending 1 1/2 hours a day on school immunization records and they finally had to hire a half time secretary just to maintain the records. He stated he isn't opposed to immunization but feels the Department of Health should assume responsibility as they have access to more money in terms of grants and federal funds. He pointed out that 8% of the elementary students are Vietnam refugees. They gained 44 new

students in the first three months of school and are now accepting no new students from out of district. He felt the health department can help and cooperate with them on this project. They run no school levies in Corvallis at present and don't intend to in the future, he stated. He said the Californians and Vietnamese won't bring medical records with them.

Jess Long, representing the School Administrators of Montana, stated they oppose the bill but do support immunization; they would like to see the administrative exemption continued. He suggested putting some teeth in the bill by perhaps going as far as making provision for prosecution of non-complying parents. He further suggested tightening the administrative exemption by mandating the number of times a parent must be contacted by a public health or school nurse. He stressed the need for the administrative exemption for the 1% of the parents who just don't care.

Chad Smith, representing the Montana School Boards Association, stated they strongly support immunization but have some problems with this bill. They did not originally anticipate the widespread abuse of the administrative exemption. He presented proposed amendments to the committee (attachment #8) in which the obligation is put on public health. He further pointed out that compulsory attendance laws and no attendance without immunization can come to a head.

Linda Ziesing, a parent from Whitehall, stated she agreed with most of the testimony and certainly does not oppose immunization. She did state she was opposed to tightening up the bill. She said she was aware that many parents are not aware or aren't being fully informed of their rights of exemption and some feel intimidated which has caused resentment in the community. She pointed out the case of a parent who was informed that her child, who suffered with an extensive allergy problem, would not be able to attend school without the complete proper immunizations. She felt she was taking an awful chance with her child's health, but complied and fortunately the child had no reactions. She feels the potential for coercion or force exists and urged the committee to find a way to more adequately inform parents and explain their rights in this area.

Senator VanValkenburg, closed by addressing some of the concerns of the opponents saying he was not unmindful of their concerns. He said government, i.e. the collective will of the people, must guarantee that society have a way to enforce the majority will, but be ever mindful of the minority will. He pointed out the bill still retains the capacity of the parents to exempt

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themselves and the form from the health department makes it clear that there are exemptions and how to utilize them. He noted, in answer to enforcement, there is already an enforcement procedure through Department of Health injunction which should be adequate. He pointed out schools are the only collection point for children and therefore the logical point to collect the information. It is certainly more effecient than having the health department go door to door to check immunizations. He said this bill puts the monkey squarely on the back of the parents, in effect, saying you have a responsibility - exercise it.

After discussion by the committee, the hearing was closed.

There being no further business, the meeting adjourned to reconvene Monday, January 19, at 1:00 p.m.

Senator Bob Brown, Chairman

jdr

SB 58
BILL SB 68

SENATE HUMAN SERVICES AND AGING
EDUCATION AND CULTURAL AFFAIRS
VISITORS' REGISTER

DATE 4/14/81

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOS
Pat Petrie	Montana Health Systems Agency	SB 58	✓	
Ellie Ponty	Dept of Health & Env. Sciences	SB 58	✓	
C. Ray Fischer	Blue Cross of MT.	SB 58	✓	
Alba L Demsteny	Mont School Nurses Assn	SB 58	✓	
Gail L. Gibson	MT Dept. of Health & Env. Sci.	SB 58	✓	
[illegible]	[illegible] Co. Sch. Dist #1	SB 65	✓	
Dennis Wilson	Gallatin Co. Sch. [illegible]	SB 68	✓	
John Anderson MD	Dept. of Health	SB 68	✓	
Tony Tozzetti	Stevensville Schools	SB 58		✓
Jack Webster	Corvallis Schools	"		✓
Quentin Brown	" "	"		✓
Sharon L. Turner	Mont Parent Teacher Assn	SB 58	✓	
Dan Stevinson	" " " "	SB 58	✓	
[illegible]	MSHES	SB 58	✓	
Roberta Lorner	Hill County Public Health Dept	SB 58	✓	
Dick Poulos	MSUE	SB 58	✓	
Marian McDave	Joint Health Depts	SB 58	✓	
Tom Butler	Mont. Ed. Assoc	SB 58	✓	
Chris Smith	Mont S.A. [illegible] Assn	SB 65	✓	
David B. Lackman	Mont. Public Health Assn	SB 58	✓	
Robert B. Morris	Helena School Dist No. 1	SB 58	✓	
Richard Treimer	Co Sanpts	SB 58 SB 68		
Sen. Judy Jacobson		SB 58	✓	
[illegible]	M. M. A. (Int. [illegible])	SB 68	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE _____ COMMITTEE

BILL _____ VISITORS' REGISTER DATE _____

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Tommie J. Johnson	Parent	SB58	✓	
Loretta Hester	School Nurse	SB58	✓	
Evelyn B Myers	Self	SB58		✓
Jerry Roth II	Helena Schools	SB58	✓	
Martin Evenson	Helena Schools	SB58	✓	
Linda Ziesing	Parent	SB55		✓
Barbara Keb	CPE	SB58		
Rick Kesse	Board of Ed	SB58		
Judy T. Chan	Mt Nurses Assoc	SB58	✓	
Jean M Lamp	School Nurses of MT	SB58		✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

JUSTIFICATION: SB 58

"An act to amend Section 20-5-403, MCA, of the School Immunization Laws to eliminate the exemption based on failure to act."

Background

The 1973 Montana Legislature enacted a law which allowed school districts to require immunizations, but for school enterers only. Less than half of the school districts elected to implement this law, and most of those school districts made no real effort to enforce the law. As a result, Montana children's immunization levels were among the lowest in the country and, during 1977, Montana had the dubious distinction of having the highest case rate of measles in the country, with over one thousand cases. Contrary to popular belief measles is a serious childhood disease. Measles causes severe illness and can result in ear infection, deafness, encephalitis, and ever death.

Just prior to the 1979 legislative session, Montana was one of the last 4 states in the country without a statewide school immunization law. The 1979 Legislature passed SB 175 and today all 50 states have statewide school immunization laws.

All school immunization laws in the U.S. allow exemptions for medical reasons, most of these laws permit religious exemptions, and about one-third of the immunization laws also allow personal exemptions. SB 175, as introduced by Senator Fred Van Valkenburg, allowed for all three exemptions to the immunization requirement. The bill was strong, yet fair and conciliatory. Although assuring the protection of children through immunization is the primary goal of immunization laws, SB 175 could never have been construed as being compulsory or mandatory. There were alternatives to immunization; the bill merely required that the parent (or guardian) either (1) insure and document that their children are immunized or (2) file an appropriate exemption. Representatives from over 20 school, health, and voluntary organizations and agencies supported SB 175; there were no opponents. However, the Montana School Boards Association representative, speaking as a proponent, introduced the amendment which resulted in a fourth exemption to immunization, the Administrative Exemption. The amendment means that if a parent fails to immunize his/her child or file for a medical, religious or personal exemption, then that child is exempted simply because the parent failed to act. The school must file an Administrative Exemption form for all such children. SB 58 wishes to have this loophole removed.

Rationale for SB 58

Many laws are difficult to implement during their first year following enactment. School immunization laws are no exception. However, the "failure to act" amendment has made Montana's law unnecessarily difficult to successfully implement. When this amendment was introduced last session, Department of Health officials were aware and concerned that the amendment might cause problems with enforcement. We elected, however, to not oppose the amendment and give the amended law every chance to succeed.

Nationally, less than 1% of the pupils enrolled were exempted last school year for medical and religious reasons combined. In Montana, it appears that approximately 1% of the pupils will be exempted for medical, religious, and personal reasons combined. But -- the "Reports of Exempted Pupils" reveal that in over 25% of the schools, 10% or more of the pupils were exempted for administrative reasons alone. Some schools reported well over 50% of their pupils as Administrative Exemptions, and one school reported that 100% of their pupils had been administratively exempted.

In the event of an outbreak of communicable childhood disease, Department of Health, local health, and school officials must be able to readily and rapidly identify unprotected/unimmunized children. No immunized child should be given an Administrative Exemption and, since we know from surveys that almost 90% of Montana's school enterers are immunized, we know that the Administrative Exemption has been misused at least by some schools.

The "failure to act" amendment has (1) made Montana's Immunization Law unnecessarily confusing, (2) created an additional form and more paper work for schools, and (3) taken away the obligation/responsibility of the parent to present the appropriate document to school officials. But the bottom line is that a strong, straightforward law will result in less childhood illness and, therefore, less absenteeism and disruption of the educational process.

We urge you to vote in favor of SB 58.

Submitted by:

Richard L. Crankshaw
Coordinator, Montana Immunization Program
Preventive Health Services Bureau
State Department of Health & Env. Sciences

Helena Medical Clinic, P.S.C.

1930 9TH AVE.
HELENA, MONTANA 59601
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INTERNAL MEDICINE:
J. B. SPAULDING, M.D.
D. R. HIESTERMAN, M.D.

OBSTETRICS AND GYNECOLOGY:
J. J. DRYNAN, M.D.
J. E. NICKEL, M.D.
R. M. BROWNING, M.D.

PEDIATRICS:
E. P. GUNDERSEN, M.D.
E. C. RICHARDS, M.D.
J. H. STRICKLER, M.D.

SURGERY:
W. J. HOOPES, M.D.
K. J. WRIGHT, M.D.
J. W. HARLAN, M.D.

DAN SMELKO
Business Manager

January 9, 1981

Honorable Bob Brown
Members of the Senate Commitee on Education
State Senate
State Capitol
Helena, Montana 59620

Dear Senator Brown and Members of the Committee,

As a practicing pediatrician in Helena, Montana and as a representative of the Montana Chapter of the American Academy of Pediatrics, I would like to speak in favor of Senate Bill 58.

As pediatricians, we were very pleased to see the passage of the School Immunization Bill in the last legislature. However, as advocates for children and as physicians responsible for their care, we do not feel that the children should be the victims of the parents' irresponsibilities and failure to act. Although there are very legitimate, personal, religic or medical reasons for non-immunization, which should be preserved, mere parental lethargy represents a form of medical neglect. In and of itself this failure to act should not be considered criminal, but on the other hand we would urge you not to condone this neglectful behaviour and to close a loophole in an otherwise excellent law.

Thank you very much,

Jeffrey H. Strickler, M.D.

JHS:bjl
ADD: This position is also supported by the Montana Medical Association.

ME: David B. Lackman DATE: Jan. 14, 1981

DRESS: 1400 Winne Ave., Helena, MT. 59601

HONE: 443-3494

EPRESENTING WHOM? Montana Public Health Assn.

PPEARING ON WHICH PROPOSAL: Senate Bill No. 58 (School Immunization

O YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Copies attached.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY. ✓

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Senate Bill No. 53 (Van Valkenburg) "An act to amend section 20-5-403, MCA, of the school immunication laws to eliminate the exemption based on failure to act."
HEARING: Education , Wednesday , Jan. 14, 1981 , Room 402 , 1:00 P.M.

I am David Lackman , Diplomate in Immunology of the American Board of Microbiology; and lobbyist for the Montana Public Health Association. I am testifying in support of Senate Bill No. 58

We are well on the way to eliminating the ravages of childhood communicable diseases. Contrary to some beliefs, they are not benign infections. Latent viruses, especially measles , may trigger the genetic defect in the immune system which results in multiple sclerosis. Post -infectious encephalitides are very serious conditions - extremely difficult to deal with.

As others have testified , the exemption based on failure to act in the present code has resulted in a "loophole" resulting in many non-immunized students.

When in Washington recently , I asked about their school immunization program. It is working well without the exemption referred to. This has also been the experience in many other states.

Schools are the universal point of contact with children. As a long-time school board member , I never flinched from accepting responsibilities for the benefit of the whole child.

We urge the enactment of SB 58 .

David B. Lackman

David B. Lackman , Ph.D. , Chairman,
Legislative Committee , Montana Public
Health Association

As a practicing Public Health Nurse in Hill County, Montana, I respectfully request that members of the Senate Education Committee consider amending Senate Bill 58, as proposed by Senator Van Valkenberg to delete Section 1, Sub-section 2, which allows for administrative exemptions in the documentation of immunizations.

Hill County school children at present have between 90-98% immunization levels. I believe allowing parents to fail to act has prevented Hill County from reaching its goal of 100% immunization levels.

I currently provide health services for 12 county schools. Of the 825 students enrolled in grades K-8, only 1 personal exemption has been filed and no religious exemptions. However, 89 administrative exemptions have been filed.

In the Havre City Elementary schools, where 1350 children are enrolled in grades K-6, 16 religious/personal exemptions have been filed and 43 administrative exemptions. In the Junior High, there are 10 administrative exemptions of the 200 students. In the High School where there are 905 students, there are 28 students having administrative exemptions.

Because of the nature of the administrative exemption, it is impossible to determine whether or not a child is actually lacking a needed immunization or whether the child is immunized and the parents have merely neglected to submit documentation.

The distinction between the two is crucial to planning public health measures in the case of a disease outbreak in the schools.

Students who are actually properly immunized may have to be excluded from school for 30 days, merely because of their parents failure to act.

By requiring the parent to choose between a medical, personal or religious exemption, this problem can be avoided.

Respectfully submitted,

Roberta Lener, RN

Roberta Lener, R.N.
Hill County Nurse

RL/jh

NAME: C. Ray Fischer DATE: 1-14-81

ADDRESS: Great Falls

PHONE: 761-7310

REPRESENTING WHOM? Blue Cross of Mt.

APPEARING ON WHICH PROPOSAL: SB 58 - Immunization

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Blue Cross believes in good health. This is a beginning.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PAT PETAJA
MONTANA HEALTH SYSTEMS AGENCY, INC.
324 FULLER AVENUE, HELENA

OUR AGENCY IS INVOLVED WITH HEALTH CARE PLANNING IN THE STATE.

WE PREPARE A HEALTH SYSTEMS PLAN WHICH ADDRESSES A MULTITUDE OF HEALTH CARE SERVICES. OUR 1981 PLAN WILL INCLUDE A COMPONENT ON IMMUNIZATION.

WHEN RESEARCHING THE TOPIC OF IMMUNIZATION SERVICES IN MONTANA, WE NOTED A SERIOUS LOOPHOLE IN THE SCHOOL IMMUNIZATION LAW. THIS WAS IN THE FORM OF AN ADMINISTRATIVE EXEMPTION BASED ON FAILURE TO ACT. THIS ADMINISTRATIVE EXEMPTION RENDERS THE LAW MUCH LESS EFFECTIVE, in our estimation.

WITHOUT THE ADMINISTRATIVE EXEMPTION WE FEEL THIS IS A VERY GOOD (necessary) LAW.

WE SUPPORT THE RIGHT OF PARENTS TO CLAIM EXEMPTIONS IF THEY SO WISH, BUT, WE ARE CONCERNED THAT THE ADMINISTRATIVE EXEMPTION DISCOURAGES THE STRONGEST EFFORTS TO URGE PARENTS TO HAVE THEIR CHILDREN IMMUNIZED.

IN CONCLUSION, IT IS OFTEN EASY TO FORGET THE HARDSHIPS AND SUFFERINGS THESE DISEASES CAUSED JUST TWENTY-FIVE YEARS AGO, ~~BEFORE WE HAD THE AVAILABLE~~ VACCINES. IF WE DO NOT KEEP OUR CHILDREN'S IMMUNIZATION LEVELS CURRENT DISEASES SUCH AS POLIO CAN STRIKE AGAIN.

THE MONTANA HEALTH SYSTEMS AGENCY URGES YOUR SUPPORT OF THE ~~AMENDMENT TO THIS~~ VERY IMPORTANT LAW.

Respectfully

January 14, 1980

TO: Senator Bob Brown
Chairman Senate Education Committee

FROM: Montana School Nurse Interest Group

The School Nurse Interest Group favors the repeal of the failure to act amend
Without this amendment which created the administration exemption option we
feel that the law is very sensible and workable.

We support Senate Bill 58.

Alice L. Armstrong

Alice L. Armstrong
Vice Chairman School Nurse Interest Group

NAME: Connie J Johnson DATE: Jan 13, 1981

ADDRESS: 1701 Chestead, Helena MT 59601

PHONE: 443-4278

REPRESENTING WHOM? Parents view, advocate for protection of unborn child

APPEARING ON WHICH PROPOSAL: SB 58

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: I fully support repeal of exemption. As I feel it is parents responsibility to immunize children & let school board if there is some reason why they do not want their children immunized. I do not want my children exposed to disease or the unborn child exposed to disease especially in first trimester.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Roberta Lorer DATE: 1-14-81

ADDRESS: 415 10th Ave. HAVRE MT 59501

PHONE: 265-5481 EXT 45

REPRESENTING WHOM? Hill Co Health Dept

APPEARING ON WHICH PROPOSAL: Senate Bill 58

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: I support the deletion of the administrative exemption allowed in the present school immunization Law

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Shirley M. Bruce DATE: 1/14/81

ADDRESS: 316 No Park - Helena Mt

PHONE: 443-1010

REPRESENTING WHOM? Women Ob Gyn and Nurse Anesthetists of local hospitals

APPEARING ON WHICH PROPOSAL: SB 58

DO YOU: SUPPORT? / AMEND? _____ OPPOSE? _____

COMMENTS: Support repeal of amendment 7 "failure to act" This will clarify law reduce paperwork and improve communications and subsequent the health of the child

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MONTANA CONGRESS OF PARENTS AND TEACHERS

January 14, 1981

Ladies and Gentlemen, my name is Joy Stevlingson and I represent the Montana Parent Teachers Association.

It is not at issue here as to whether or not an immunization law is necessary and worthwhile. The law has been passed and with its passage, Montana followed a national trend in making immunization mandatory for school attendance. The reasoning behind the need for the law is that there will always be neglectful parents who won't obtain immunization for the good of their child because of their own failure to act. Due to the administrative exemption in the law we are now faced with neglectful school districts who, like those slack parents, are sacrificing the welfare of the child because of their failure to act. The parallels are clear. The reason for making the law, protection of children, is the same reason the loophole must be closed. There will always be that element of society without the self-discipline to protect their children, so we must have a law with the clout to do it for them. We endorse this legislation to close the loophole that has allowed some school districts to be remiss in carrying out the intent of the law and we ask this committee to give a "do pass" recommendation to this bill.

Thank-you.

SENATE BILL 58

It is my feeling, and th feeling of the nurses in Helena School District No. 1, that the effo t to amend the school immunization law is both timely and appropriate.

There is no question in my mind that the "Administrative exemption" present in the law is detrimental to the concept for which the original law was established.

There are numerous examples of incomplete immunization records throughout the Helena School District because parents have "failed to act". Consequently, the 5 nurses employed by School District No. 1, Helena, are unable to complete records that, in effect, carry out the intent of the immunization law. The vast amount of paper work required to implement the immunization law is not lessened and, in fact, tends to be more overwhelming because of the ease in which parents are able to sidestep the immunization law.

It is my understanding that the original intent was to increase the percentage rate of immunizations for school-aged children in Montana. If school districts are to be in compliance with the law and if our ultimate goal is to immunize as many students as possible, then the law must be amended to exclude the Administrative exemption.

Perhaps this amendment does not go far enough in simply removing the exemption. Is it not possible to include some kind of penalty for <u>failure t immunize</u> and hence, to <u>notify the school</u> in the prescribed length of time? This would make the law effective. As it is now being administered, our efforts to raise the immunization level of our students are seriously minimi

We support the exclusion of the "Administrative exemption" clause and respectfully suggest that a penalty clause be inserted for failure to compl within a specified period of time.

Gerald W. Roth

Gerald W. Roth, Director
Special Services Center
Helena School District No. 1
Helena, Montana

NAME: Jack Webster DATE: 1/14/81

ADDRESS: Corvallis Mont. 59828

PHONE: 961-4211

REPRESENTING WHOM? Corvallis Schools

APPEARING ON WHICH PROPOSAL: Immunization

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: The schools have enough responsibility now + do not need another burden. I worry in about family immunizations. If this is mandated let the Public Health handle this alone.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Tony Tognetti DATE: 1/14/81

ADDRESS: 111 South Ave. Stevensville MT.

PHONE: 777-5481 (work)

REPRESENTING WHOM? Stevensville Schools

APPEARING ON WHICH PROPOSAL: SB 58

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: Problems Exist in Schools on foundation program which make it more difficult to Comply.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

LORETTA F. P YEAR, Clerk

ANTHONY D. TOGNETTI, Superintendent

Stevensville Public Schools

SCHOOL DISTRICT NO. 2

STEVENSVILLE, MONTANA 59870

Jan. 13, 1981

Senators:

The following is a compilation of numbers of students who have enrolled as new students in Stevensville Schools during the full school year of 1979-80 (last year) or during the first semester (½) of the current 1980-81 school year. The totals therefore reflect 1½ years only of new students transfers and the problems associated with obtaining health and academic records.

The 4th catagory has been added to show you the rate of student turnover through the 4 years of the current senior class alone.

Elem. K-6	Total 343
1979-1980	127
1980-1981	216
Jr. High	Total 97
1979-1980	66
1980-1981	31
High School	Total 87
1979-1980	41
1980-1981	46

Current Seniors 84
Started as Freshmen and stayed with the class-- 61
Student who enrolled and left class during past 4 years--55

SENATE BILL NO. 58

Mr. Chairman: I move to amend Senate Bill No. 58 as follows:

1. On page 1, by deleting the proposed amendments shown on lines 12, 15, 20 and 21.

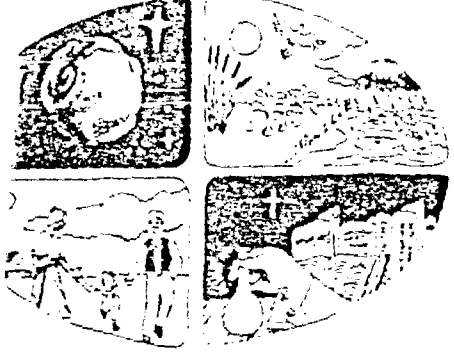
2. On page 1, following line 25 by adding the following sentence as sub-section (2):

> "(2) The governing authority may determine that a failure of any person to act as provided in subsection (1) is an exemption but such determinations of exemption shall not exceed 5 percent of the enrollment of the school district."

3. On page 2 by adding the following paragraph as Section 2:

> "Section 2. Penalty. Any parent who refuses or neglects to immunize a child who is subject to compulsory school attendance so that the child can be enrolled and who refuses or neglects to file for an exemption on behalf of the child shall be guilty of a misdemeanor and fined not less than $5 nor more than $20 for each day that such refusal or neglect continues. The department shall have the primary responsibility for enforcement of this section."

4. On page 2, line 1, by renumbering "Section 2" to read "Section 3".



...MAKING A DIFFERENCE...

RECEIVED

JAN 12 1981

MDHES
PREVENTIVE HEALTH SERVICES
BUREAU

January 9, 1981

Senator Bob Brown, Chairman
Education Committee
Montana State Senate
Helena, Montana 59620

Dear Senator Brown:

I am writing to you and your committee on behalf of the Montana Local Health Officers' Association in support of Senate Bill 58.

We believe that the current Administrative Exemption rule is contrary to the interest of the school immunization law and should be eliminated from this law. By doing so, we would expect to see more clarity in the law, less paper work, better immunization levels and, most importantly, healthier children.

Thank you for your consideration of our comments.

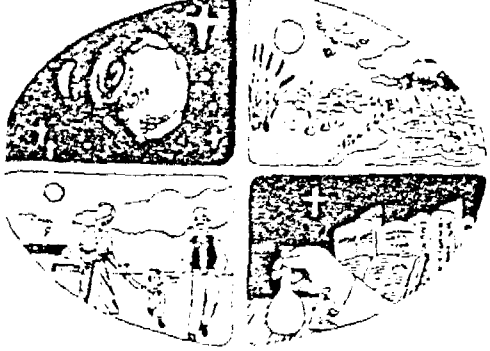
Sincerely,

David A. Peffer, Chairman
Montana Local Health Officers' Assoc.

DAP:mjp

cc: Local Health Officers

MISSOULA. CITY-COUNTY HEALTH DEPARTMENT
301 WEST ALDER STREET MISSOULA, MT 59801
TELEPHONE 721-5700



...MAKING A DIFFERENCE...

January 9, 1981

Senator Bob Brown, Chairman
Education Committee
Montana State Senate
Helena, Montana 59620

Dear Senator Brown:

I am writing in support of Senate Bill 58 which has recently been referred to the Education Committee. This bill will eliminate the Administrative Exemption option now available to schools for students not adequately immunized against preventable childhood diseases.

Missoula County officials have never been in support of this "failure to immunize" option. I have talked to other Montana County Health Department Directors of Nursing and they agree. Schools must accept the responsibility for actively pursuing pupil immunizations; parents must accept the responsibility for having their children immunized. By eliminating this Administrative Exemption, the original intent of the law will be considered and followed. With an increase in immunization levels, there will be less absenteeism and more importantly Montana's children will not be victims of preventable diseases.

I strongly urge your consideration and support of this important Senate Bill.

Sincerely,

Crystal Day

Crystal Day, Director of Nursing
Chairperson,
Montana Health Departments' Director
of Nursing Association

CD:mjp

MISSOULA CITY-COUNTY HEALTH DEPARTMENT
301 WEST ALDER STREET MISSOULA, MT 59801
TELEPHONE 721-5700

ACTION ON SENATE BILL 67

Senator Mazurek moved Senate Bill 67 DO PASS. The motion carried unanimously with Senator Blaylock absent.

ACTION ON SENATE BILL 58

Senator Thomas moved to amend the bill by inserting amendment #3, attachment #3, to the bill. After discussion, Senator Thomas withdrew the motion.

Senator Blaylock joined the committee.

Senator Mazurek moved Senate Bill 58 DO PASS.

Senator McCallum made a substitute motion that the bill be amended to reflect a July 1, 1981, effective date (as per the attached standing committee report). The motion carried unanimously.

Senator Mazurek moved Senate Bill 58 DO PASS AS AMENDED. The motion carried on a roll call vote with Senators Smith and Severson voting no (see attached roll call vote #4).

ACTION ON SENATE BILL 23

Senator McCallum moved Senate Bill 23 DO PASS. The motion carried on a roll call vote with Senators Hammond, Blaylock, and Mazurek voting no (see attached roll call vote #5).

ACTION ON SENATE BILL 68

Senator Blaylock moved Senate Bill 68 DO PASS. The motion failed with only Senator Blaylock voting yes.

Senator Hammond moved Senate Bill 68 DO NOT PASS. The motion carried with only Senator Blaylock voting no.

There being no further business, the committee adjourned to reconvene Wednesday, January 21, at 1:00 p.m.

Bob Brown

Senator Bob Brown, Chairman

JDR

STANDING COMMITTEE REPORT

January 20, 19 81

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE BILL Bill No. 58

Respectfully report as follows: That SENATE BILL Bill No. 58,

be amended as follows:

1. Title, line 8.
Following: "ACT"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 2.
Following: line 4
Insert: "Section 3. Effective date. This act is effective July 1, 1981."

And, as so amended,
DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE COMMITTEE EDUCATION and Cultural Resources

Date Jan. 19, 1981 Senate Bill No. 58 Time 1:40 p.m.

NAME	YES	NO
Senator Ed Smith		X
Senator George McCallum	X	
Senator Elmer Severson		X
Senator Swede Hammond	X	
Senator Chet Blaylock	X	
Senator Bill Thomas	X	
Senator Joseph Mazurek	X	
Senator Jack Haffey	X	
Senator Bob Brown, Chairman	X	

Secretary

Chairman

Motion: by Senator Mazurek that Senate Bill 58 Do Pass As Amended.

(include enough information on motion—put with yellow copy of committee report.)

HOUSE EDUCATION COMMITTEE MINUTES
March 4, 1981

The House Education Committee convened at 12:30 p.m., Wednesday, March 4, 1981, in Room 129, State Capitol, with Chairman Eudaily presiding and all members present except Reps. Donaldson and Lory, who were excused, and Rep. Azzara, who was absent.

Chairman Eudaily opened the meeting to a hearing of the following bills: SBs 58, 262, 281 and HJR 34.

SENATE BILL 58

SENATOR FRED VAN VALKENBERG, District 50, chief sponsor, said the bill was introduced at the request of the Health and Environmental Sciences Department to amend the immunization law by deleting the provision that failure to act is an exemption. He said prior to 1979 we did not have any statewide immunization law but did have a law that permitted local school districts to adopt immunization policies. He mentioned a measles outbreak in the state that had come about because people had become lackadaisical about getting vaccinations for their children. He said the provision they are seeking to delete was inserted into the 1979 law in an attempt to deal with the situation of the impossible student, the one who won't do anything at all as far as getting vaccinated or electing to take one of the exemptions. He said the exemptions are quite liberal as they can be taken for medical reasons, for religious reasons, and for overall personal reasons. The parent only needs to sign a form claiming one of these exemptions. He said at the time of the passage of the bill it was expected about 5% would elect to take the exemptions. The "failure to act" exemption, which has become known as the "administrative exemption" is claimed by the school when there is no proof of vaccination or signing of an exemption card. This has been abused with one district claiming 100% administrative exemptions. He said this makes it impossible to administer this law or for the law to accomplish what it was designed to do. He said he was suggesting an amendment which would permit a 30 day grace period for transfer students. A copy of this is EXHIBIT 1.

RICK CRANKSHAW, Department of Health and Environmental Sciences, Preventive Health Bureau, said he was the coordinator for the immunization law. A copy of his testimony is EXHIBIT 2 of the minutes. He said he had received a call from Ray Fischer, manager of Blue Cross, just before the meeting that he was unable to attend and asked that his support be indicated and to pass out immunization record cards.

PAT PETAJA, Montana Health System Agency, said the "administrative exemption" is a serious loophole in the school immunization law. She said they are delighted to see this bill that would eliminate that. She said sometimes it is easy to forget what polio was like and the very serious handicaps and this could happen again if children are not immunized.

JOYCE COOMBE, Chairperson, Montana State School Nurse Interest Group, spoke in support and a copy of her testomony is EXHIBIT 3.

G. BRIAN ZINS, Montana Medical Association, Helena, said they urge support of the bill.

DR. JEFF STRICKLER, American Academy of Pediatricians, said as pediatricians they are very interested that all children receive immunization. He said children who are not immunized are a risk to the comminity as unfortunately not all immunizations are 100% effective and the immunized child may get the disease because they are exposed. He said the medical neglect of failing to immunize is really a form of child abuse.

JOANNE SHEARER, Helena, representing self, said as the mother of three children she believed in immunization and felt it was important to protect the health of all children. She said the current law with its loophole unnecessarily exposes her children to communicable diseases.

JESSE LONG, School Administrators of Montana, said in the Senate they had opposed the bill but if the amendment allowing the 30 day grace period for transfer students is adopted they are for the bill. He said an idea they would have liked to have seen incorporated is financial support to the school district for this. They urged the committee to support the bill as amended by Snator Van Valkenberg.

DAVID B. LACKMAN, Chairman of the Legislative Committee of the Montana Public Health Association, spoke in support and a copy of his testimony is EXHIBIT 4.

WILLIAM BURKE, Butte, Health Officers Association, felt this "administrative exemption" was contrary to the interests of the people of the state. He said the bill would bring clarity to the law, better immunization and as a result healthier children.

CHAD SMITH, School Board Association, said he was a proponent in the sense that the School Board Association can see the problem. He said it was not their intent to create these problems. He said he knows of the school district that has taken the position that because it does't have adequate funds it is not going to take on any new duties. That is the one that took the 100% administrative exemption. He said they tried to encourage the district otherwise but were not successful. He said it was an embarrassing, complete circumvention of the law. He felt, though, that this bill is an overreaction the other way. Because of a situation that is represent ative of a complete disregard for the law, no situation is worthy of consideration. He said their problem is that many of the parents don't show up - they just abandon the children to the schools. They are totally indifferent and claim they have a constitutional right to send their children to school and don't have to sign

anything. He felt the exemptions shouldn't include more than 5% of the children which should give enough protection. He mentioned a newspaper article in which Mr. Crankshaw had mentioned if the exemptions could be kept to 10% it would protect against any type of disease. He said in the amendment they offered in the Senate they offered to cut it to 5%. He said they would prefer having that amendment but in lieu of that they would like to have the exemption left to the Department. He said they would go along with that. EXHIBIT 5 is a copy of his suggested amendments and EXHIBIT 6 is a statement he left with the committee.

JOY STEVLINGSON, Great Falls, MPTS urged support of the bill. she said she realized there are passages in the bill that will cause some inconvenience and some overburdening. She suggested the use of volunteers within the community to help those districts that have a problem with this. She said no one is exempt from registering their car and our children should be at least as important to us.

TONY McCOMBER, Montana Education Association, spoke in support. He said this is an easy problem to ignore when things are going well but it carries a potential of epidemics when we fail to carry out the immunization because of this loophole. He said he realizes the concern of the school board. He also said the district could get volunteer help in their community from PTA members, retired people and other civic groups. He urged support of the bill.

Senator Van Valkenberg said the following witnesses had planned to come and speak in support of the bill: Judy Olson; Rick Reese, MT University System; and Jerry Roth. He said he seriously questioned Mr. Smith's being a proponent of the bill. He did not feel the amendment offered by Mr. Smith would bring about the end he would like to see accomplished and that is the safety and welfare of the children. He felt the amendment would leave in the failure to act amendment and if you do that you might as well kill the bill as you would have as bad or worse situations developing in the coming biennium. He said they talked about the possibility of giving the Department of Health some discretion in the truly impossible student cases. He said the department doesn't support that amendment. He felt the injunction power and the personal exemption provided plenty of leeway in dealing with the so called impossible student. He said if you put the monkey on the parents' backs that the law will be executed, the parents will do what they are asked to do. He suggested Mr. Crankshaw be asked about the quote from the paper.

Questions were asked by the committee. Rep. Andreason asked what would happen in an extreme case where the parents refused to sign any exemption slip. What would the school do? Sen. Van Valkenberg said if he wasn't a transfer student they would dismiss the student and notify the Department of Health to start an injunction action until proof of vaccination is shown or exemption is complied with.

He said this is an unlikely event. Andreason asked if the court could put in an exemption on their behalf. The Senator said it would be similar to a joint tenancy to property - court orders the sale of the property and one of the joint tenants won't sign the deed, the court can sign for him. So the court he felt would have the power to sign the exemption.

Rep. Hannah asked the percentage of people exempted. How many people were not immunized last year. Mr. Crankshaw said they know the number of schools and from that they would say about 1/4 of the students in the state of Montana are not immunized. He said the reports are still coming in.

Rep. Dussault asked Mr. Crankshaw about the newspaper quote mentioned by Mr. Smith. Mr. Crankshaw said the paper said he had said that 10% or less would be a good show effort on the part of the schools. He had said to the reporters that the department would take a close look at all schools that would have reported 10% were taking administrative exemptions as that would be a strong indication of abuses of the law. He said they had just sent 600 exemption forms to Billings. He said that city did list them as administratively exempt but are trying to spend more time in trying to get them vaccinated or to sign. They do have the names of the students. He said he has a compilation of schools listing more than 10% as administratively exempt. He said Cascade County has submitted 34 of 45 schools and of the 34, ten schools had 10% or more. He said the second largest high school in the state listed 52% administratively exempt. He said they couldn't tell which of the children are protected or not because they have filed an administrative exemption even though there might be documents somewhere which the parents aren't providing.

SENATE BILL 362

SENATOR FRED VAN VALKENBERG, District 50, chief sponsor, said the bill was introduced at the request of the School Boards Association to deal with the potential problem that might arise in the future if we again have a statewide declaration of emergency. He mentioned the St. Helens emergency that had shut down a part of the state for four days. The school laws require the days be made up and it came at the end of the school year which made it difficult. Some made it up on Saturdays and some ignored the law and hoped no one would find out. He said it is unlikely that such a governor declared emergency would happen again, however the volcano remains active.

JESSE LONG, School Administrators of Montana, spoke in support of the bill.

DAVID SEXTON, Montana Education Association, said this is the best bill the School Boards Association has come up with.

Questions were asked by the committee. Rep. Anderson suggested an amendment on page 2, line 11, to remove "total." Rep. Vincent said it is very unlikely you would have a total revision but he hoped to leave the word in to permit that flexibility if needed. He wouldn't have any real objection. Rep. Anderson said line 18 - do you believe that line is consistent with the rest of the resolution - increasing a county's property tax when it should be a decreasing county tax. Rep. Vincent responded you want to say something other than "increase" - maybe "consider". No objection to the way the word "increase" sets a certain direction. Rep. Anderson asked if line 23 fits in with the foundation program or is it a separate topic. Rep. Vincent: no objection to that. Rep. Kitselman said it does fit and he was glad to see it in the resolution. He mentioned the city of Billings had gone under self-insurance and saved thousands of dollars.

Chairman Eudaily closed the hearing on the bills and opened the meeting to an executive session on the following bills:

EXECUTIVE SESSION

SENATE BILL 58 - Chairman Eudaily permitted some additional questions of witnesses as Mr. Smith had been unable to stay for questions after testifying earlier.

In response to a question concerning his suggested amendments, Mr. Smith said the loophole would no longer be there. He went on to discuss the amendments he had offered in the Senate Education Committee and on the floor of the Senate as well as the ones being offered to this committee.

Senator Van Valkenberg expressed his concern with the amendments offered by Mr. Smith. He said he would like to see the bill as prepared, with the grace period for transfer students added, work for a biennium as it was planned to do.

Rep. Dussault moved DO PASS on SB 58. She then moved to adopt the amendments of Senator Van Valkenberg having to do with permitting a grace period for transfer students. The motion to adopt these amendments carried unanimously.

Rep. Anderson said he favored the bill and commended Senator Van Valkenberg for his work on it. He said it is working in other states and it is long overdue in this state. He said we have an obligation to not only teach but to do what we can to protect the health of our students. He said it is not impossible students but impossible parents.

Rep. Dussault said the law is very clear and she read the law from the code book. She said to muck up the law because of the possibility that someone might file a lawsuit.is no way to go.

The question was called and the motion carried unanimously with those

present that the bill BE CONCURRED IN AS AMENDED. Absent were: Reps Azzara, Donaldson and Lory.

SENATE BILL 262 - Rep. Andreason moved that the bill BE CONCURRED IN. The motion carried with all voting yes except Rep. Hannah who voted no and absent were Reps. Azzara, Donaldson and Lory.

SENATE BILL 281 - Rep. Anderson moved the bill be amended on line 18, page 1, by striking "to be held on a Tuesday." The motion carried unanimously with those present. Rep. Anderson then moved the bill BE CONCURRED IN AS AMENDED and this motion carried unanimously with those present (absent were Reps. Azzara, Donaldson and Lory).

Senator Van Valkenberg said he would get someone to carry the bills on the floor.

Rep. Yardley moved to adjourn. Meeting adjourned at 2:35 p.m.

Respectfully submitted,

RALPH S. EUDAILY, CHAIRMAN

eas

PROPOSED AMENDMENTS TO SENATE BILL 58

Title, line 8.
Following: "TO ACT;"
Insert: "ALLOWING A GRACE PERIOD FOR TRANSFER STUDENTS;"

Page 1, line 13.
Following: "required"
Strike: "."
Insert: "--grace period for transfers. (1)"

Page 1, line 15.
Following: "unless"
Strike: ", prior to enrollment,"

Page 1, line 16.
Following: line 15
Strike: "(1)"
Insert: "(a)"

Page 1, line 21.
Following: line 20
Strike: "(2)"
Insert: "(b)"
Following: "enrollment;"
Strike: "or"

Page 1, line 22.
Following: line 21
Strike: "(3)"
Insert: "(c)"
Following: "exemption"
Strike: "."
Insert: ";or"

Page 1
Following: line 22
Insert: "(d) is a pupil transferring from another school district, in which case the provisions of subsection (2) apply."

Page 2
Following: line 1
Insert: "(2) A person who transfers from one school district to another shall have 30 calendar days after commencement of attendance at the school to which he or she transfers to either complete immunization as specified in subsection (1)(a), commence immunization in the manner required by 20-5-404, or file for an exemption. If none of the foregoing actions is taken within 30 days, the transfer pupil must be prohibited from further attendance until such action is taken."

Crankshaw
Ex. 2

JUSTIFICATION: SB 58

"An act to amend Section 20-5-403, MCA, of the School Immunization Laws to eliminate the exemption based on failure to act."

Background

The 1973 Montana Legislature enacted a law which allowed school districts to require immunizations, but for school enterers only. Less than half of the school districts made a real effort to enforce the law. As a result, Montana children's immunization levels were among the lowest in the country and, during 1977, Montana had the dubious distinction of having the highest case rate of measles in the country, with over one thousand cases. Contrary to popular belief measles, is a serious childhood disease. Measles causes severe illness and can result in ear infection, deafness, encephalitis, and even death. (There were 6 deaths due to measles in the U.S. in 1980.)

Just prior to the 1979 legislative session, Montana was one of the last 4 states in the country without a statewide school immunization law. The 1979 Legislature passed SB 175 and today all 50 states have statewide school immunization laws.

All school immunization laws in the U.S. allow exemptions for medical reasons; most of these laws permit religious exemptions; and about one-third of the immunization laws also allow personal exemptions. SB 175, also introduced by Senator Fred Van Valkenburg, allowed for all three exemptions to the immunization requirement. The bill was strong, yet fair and conciliatory. Although assuring the protection of children through immunization is the primary goal of immunization laws, SB 175 could never have been construed as being a compulsory or mandatory immunization law. There were alternatives to immunization; the bill merely required that the parent (or guardian) either (1) insure and document that their children are immunized or (2) file an appropriate exemption. Representatives from over 20 school, health, and voluntary organizations and agencies supported SB 175; there were no opponents. However, the Montana School Boards Association representative, speaking as a proponent, introduced the amendment which resulted in a fourth exemption to immunization, the Administrative Exemption. The amendment means that if a parent fails to immunize his/her child or file for a medical, religious or personal exemption, then that child is exempted simply because the parent failed to act. The school must file an Administrative Exemption form for all such children. SB 58 wishes to have this loophole removed.

Rationale for SB 58

Children spend a large part of their developing years in schools. During this time the schools are (or should be) concerned, not only with their education, but also with their health and safety. This concern for health is particularly important when one considers that schools provide occasions and places for the spread of serious communicable diseases by bringing large numbers of children together for extended periods of time. Indeed in recent years, high proportion of outbreaks of diseases like measles and rubella have occurred among school-age children who became infected after exposure to their classmates during school

-over-

hours. Adults in the schools can also be affected; it's a serious matter if a female teacher who is pregnant is exposed to rubella.

For these reasons, all 50 States have now enacted laws or regulations requiring that children be immunized against the basic "childhood" diseases before being allowed to enter school. There is a long tradition of legal support for this, which acknowledges the school's concern for, and obligation toward, the health of the children in their care. Where they have been applied vigorously, such laws have been effective in reducing or eliminating disease outbreaks in schools so that more children can come to school each day in good health and ready to learn.

Many laws are difficult to implement during their first year following enactment. School immunization laws are no exception. However, the "failure to act" amendment has made Montana's law unnecessarily difficult to successfully implement. When this amendment was introduced last session, Department of Health officials were aware and concerned that the amendment might cause problems with enforcement. We elected, however, to not oppose the amendment and give the amended law every chance to succeed.

Nationally, less than 1% of the pupils enrolled were exempted last school year for medical and religious reasons combined. In Montana, it appears that approximately 1% of the pupils will be exempted for medical, religious, and personal reasons combined. But -- the "Reports of Exempted Pupils" reveal that in over 25% of the schools, 10% or more of the pupils were exempted for administrative reasons alone. Some schools reported well over 50% of their pupils as Administrative Exemptions, and one school reported that 100% of their pupils had been administratively exempted.

In the event of an outbreak of communicable childhood disease, Department of Health, local health, and school officials must be able to readily and rapidly identify unprotected/unimmunized children. No immunized child should be given an Administrative Exemption and, since we know from surveys that almost 90% of Montana's school enterers are immunized, we know that the Administrative Exemption has been misused at least by some schools.

The "failure to act" amendment has (1) made Montana's Immunization Law unnecessarily confusing, (2) created an additional form and more paper work for schools, and (3) taken away the obligation/responsibility of the parent to present the appropriate document to school officials. But the bottom line is that a strong, straightforward law will result in less childhood illness and, therefore, less absenteeism and disruption of the educational process.

We urge you to vote in favor of SB 58.

Submitted by:

Richard L. Crankshaw

Richard L. Crankshaw
Coordinator, Montana Immunization Program
Preventive Health Services Bureau
State Department of Health & Env. Sciences.

Ex. 3

DATE: March 4, 1981

TO: The Chairman and Members of the House Education Committe

FROM: Joyce R. Coombe, R.N. Joyce Coombe
Chairperson
Montana State School Nurse Interest Group

REGARDING: Senate Bill 58

As a school nurse attempting to comply with Immunization Law 20-5-403, I would like to testify in favor of Senate Bill 58, which would amend the above law and eliminate the exemption based on failure to act, otherwise known as the administrative exemption.

My reasons for supporting this bill are as follows:

1. Since prevention of disease is one of the most important goals in child care, completely immunized children would eliminate many communicable childhood diseases and the ensuing medical complications that can occur when a child has that disease.

2. As the law now reads, the burden of exemption in cases where a parent fails to act is placed on the school administration. Not only does this usurp the parents rights and responsibilities, but it creates an immense amount of unnecessary paper work for the schools.

3. The Immunization Law itself is contradictory and tends to lose its clarity because the administrative exemption eliminates the enforcement of the law as stated in Section 7 of the law.

For these reasons, I urge you to support Senate Bill 58.

Ex. 4

Senate Bill No. 58 (Van Valkenburg) " An act to amend section 20-5-403 , MCA , of the school immunization laws to eliminate the exemption based on failure to act."

House hearing : Education committee , Wednesday , March 4, 1981 , 12:30 P.M. rm 129

I am David Lackman , Diplomate in Immunology of the American Board of Microbiology ; and lobbyist for the Montana Public Health Association . I am testifying in support of Senate Bill No. 58

Schools represent the universal point of contact with children. What better place for enforcing the universal immunization program ? As a long-time school board member , I welcomed the opportunity to provide for the whole child. Unfortunately there are gaps in coverage in the home and church.

It is impossible to carry on a comprehensive public school program in most communities in Montana without a voted levy ; and I noted that the two districts opposing this legislation in the senate committee hearing did not use their full taxing authority.

Childhood diseases aren't harmless infections. Rubella (German measles) virus has gained notoriety in recent years as being a leading cause of developemental disabilities. When this virus infects an expectant mother during the first trimester , there is at least a 35% chance that a defective child will be born. This virus is a major target in the school immunization program. Some of you may have noticed in Friday's paper that care for the Developementally Disabled has overwhelmed the Medicaide budget . PREVENTION IS THE SOLUTION .

The post-infectious encephalitides - particularly post-measles- are very serious clinical problems ; frequently resulting in death or permanent disability . Latent childhood viruses are now thought to be involved in certain degenerative diseases of the nervous system. Again , prevention is the answer!

The budget for the Department of Health is being cut severely so it would be impossible for them to go into schools and enforce this program. Schools already have a sophisticated system for keeping records . With the amendment to allow a grace period for transfer students , I really don't see any problem for them .

We respectfully urge enactment of SB 58.

David B. Lackman

David B. Lackman , Ph.D. , Chairman , Legislative Committee , Montana Public Health Association (& Lobbyist)

Smith 7.X.5

SENATE BILL NO. 58

MR. CHAIRMAN: I move to amend the third reading copy of Senate Bill No. 58 as follows:

1. On page 1, by deleting the proposed amendments shown in lines 13, 16, 21 and 22.

2. On page 2, following line 1, by adding the following sentence as subsection (2): "The department may determine that a failure of any person to act as provided in subsection (1) is an exemption if circumstances indicate such action advisable."

Some people won't sign anything once it's signed

Ex. 6

STATEMENT IN SUPPORT OF AMENDMENT TO SENATE BILL NO. 58

Section 20-5-403, M.C.A. presently provides that school authorities may not enroll students unless they have been immunized against certain diseases, but recognizes that in some cases the school may not be able to obtain either the immunization or the personal exemption statement provided in Section 20-5-405, M.C.A. I recognize that the exemption has been applied beyond its intent by a very few school districts but that is no reason to over-react to the other extreme and delete the administrative exemption altogether.

There is good reason for the administrative exemption in some cases. The immunization law places the obligation of enforcement on the school authorities although the function of schools is education, not public health. The school is obligated to enforce the compulsory attendance law and on the other hand is obligated to refuse admittance to any student who is not immunized unless an exemption statement is signed. The two obligations conflict and can put the school administration in an unresolvable position.

Some parents, for reasons of personal conviction, insist on their state constitutional right to send their children to the public schools and state they are not required to sign any statement on immunization before they can enjoy that right (See Butler Area School District -v- Butler Education Association, 391 A.2d 1295 (1978) on the constitutional right to education). The unresolvable situation developed here would result in a court suit, not against the public health service, but against the school authorities who refused school enrollment under the immunization law.

Frequently students transfer from other states claiming that they were immunized before transfer but have no record of it. It may take days or weeks to get the immunization records. The parents won't sign an exemption statement because the child is actually immunized. The school administration can't reasonably refuse admittance to the student until the records arrive. An administrative exemption must be temporarily allowed. Sometimes records are lost. Sometimes part of the records are lost.

Sometimes the parents of the children cannot be located, or will not cooperate if located. The child should not be deprived of an education while the problem is resolved.

I am talking about isolated cases but serious administrative problems. The amendment would allow an administrative solution to the small percentage of such cases without endangering the immunization program. Mr. Crankshaw of the Department of Health says if the administrative exemption is less than 10% of the school's enrollment, good faith on the part of the school administration is shown. [redacted].

School districts are not opposed to the immunization law but ask that they not be put in a helpless position because of it.

VISITORS' REGISTER

HOUSE EDUCATION COMMITTEE

BILL SB 58 Date 3/4/81

SPONSOR VAN VALKENBERG

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Pat Petaja	Helena	Montana Health Systems	✓	
Sheryl Matt	Helena	self	✓	
G. Brian Ciriss	Helena	MT. Med. Assn.	✓	
Gale Hoopa	Helena	self	✓	
Jean T. Loendorf	"	MT Medical Assn.	✓	
David Lackman	"	MT Public Health Assn	✓	
Jesse W. Loomis		Sch'l Adms of MT	✓	
D. Sexton	"	MEA	✓	
T. M'Culloch	"	MEA	✓	
J. H. Strecker MD	"	Am Acad of Pediat.	✓	
Joyce Sterlingson	Great Falls	MPTA	✓	
Sharon L Feeney	"	MPTA	✓	
Joanne Shearer	Helena	Self (Parent)	—	
Joyce Cromb	Butte	School Nurse Interchange	✓	
Kirk Cranston	Helena	SDHES	✓	
Ellie Parker	"	"	—	
Chad Smith	"	Mont School Boards Assn	amend	
William Burke	Butte	Health Officers association	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81